

TREASURY - GENERAL

STATE INVESTMENT COUNCIL

**U.S. Common and Preferred Stocks and Issues
Convertible into Common Stocks**

Proposed Amendments: N.J.A.C. 17:16-41.1 and 41.4

Authorized By: State Investment Council, Peter A. Langerman, Acting Director
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003-175

Submit comments by July 4, 2003 to:

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The agency proposal follows:

Summary

An exchange-traded fund (ETF) is a form of mutual fund that trades like a single stock. This instrument is a basket of stocks or bonds that reflects the composition of an underlying index such as the S&P 500 or the NASDAQ 100.

Investments in domestic equity ETFs will provide the Division of Investment with another vehicle for investing funds in the domestic equity portfolio. Exchange-traded funds will allow the Division of Investment to (1) invest funds quickly in diversified pools of equity securities when the Division determines that market volatility has created sudden investment

opportunities, and (2) invest in subsectors of the market that appear attractive when the Division does not have the immediate capability to construct a

diversified, actively-managed portfolio. Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

There shall be no social impact from the proposed amendments.

Economic Impact

The Division is already permitted to purchase ETFs for emerging markets equities pursuant to N.J.A.C. 17:16-46. Expanding the purchase of these securities will conform the rules to the practices under N.J.A.C. 17:16-46 and should not cause an economic impact. Rather, the earnings can potentially benefit the beneficiaries of the funds and the taxpayers of the state.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the Division of Investment are under the auspices of the State Investment Council, and are not subject to any Federal requirements or standards.

Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the proposed amendments.

Agriculture Industry Impact

The proposed amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no requirements on small businesses as the term is defined in Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendments are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

17:16-41.1 Permissible investments

(a) (No change.)

(b) Permissible investments include exchange-traded funds which invest in companies incorporated or organized under the laws of the United States, are traded on the New York or American Stock Exchanges, or the over-the-counter markets, and have a minimum market capitalization of \$100 million. For the purposes of this subchapter, exchange-traded funds shall be considered as common stocks in determining all applicable limitations contained within this subchapter.

[(b)] (c) The Director shall submit a list of common stocks and exchange-traded funds to the Council for its approval. Such lists may be amended or enlarged from time to time subject to the Council's approval and shall be designated the "Approved Common and Preferred Stock and Convertible Securities List" and the "Approved List of Domestic Equity Exchange-traded Funds," respectively.

[(c)] (d) The Director shall only select issues of common stocks from the "Approved Common and Preferred Stock and Convertible Securities List" or exchange-traded funds from the "Approved List of Domestic Equity Exchange-traded Funds" to be [recommended] purchased by the pension funds.

[(d)] (e) (No change in text.)

17:16-41.4 Approved Common Stock and Exchange-traded Funds Lists

(a) - (b) (No change.)

(c) The “Approved List of Domestic Equity Exchange-traded Funds” is a list of domestic equity exchange-traded funds that can be purchased by the eligible funds. Additions to or deletions from the list shall be made by the Council.